IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10326 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)

Versus

BASIR NOORMAHAMAD KHAJURIA - Respondent(s)

==========

Appearance :

MR HS MUNSHAW for Petitioner No(s).: 1.

MR SUNIL C PATEL for Respondent No(s).: 1.

==========

CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 02/08/2005

ORAL JUDGMENT

.

1. This petition is directed against the judgment and award dated 22nd February, 1999 passed by the Labour Court, Navsari in Reference [L.C.N.] No. 9/97, whereby the Labour Court has directed the petitioner Corporation to reinstate the respondent in service on his original

post without back wages and further imposed a penalty of stoppage of one increment without future effect and one increment with future effect.

2. The short facts of the case are that the respondent was working as a Conductor with the petitioner Corporation. On 16th February, 1995, while the respondent was on duty, the bus was checked by the checking squad and the squad found certain financial irregularities. Therefore, charge sheet was issued and departmental inquiry was initiated against the respondent. Since the charges levelled against the respondent was proved, he was dismissed from the service w.e.f. 20th July, 1996.

2.1. Feeling aggrieved by the said dismissal order, the respondent raised an industrial dispute which was ultimately referred to the Labour Court, Navsari for adjudication. The Labour Court after considering the case on merits passed the impugned award. Hence, this petition.

3. I have heard the learned counsel for the parties and have perused the materials produced on record. While admitting the petition, this Court on 20th July, 2001

stayed the operation of the impugned award. While passing the impugned award the Labour Court has given the benefit of doubt to the respondent workman. In my opinion, the Labour Court was justified in granting reinstatement to he workman. I am in complete agreement with the reasoning given by the Labour Court in ordering reinstatement in service to the respondent. Hence, the respondent is required to be reinstated in service.

3.1. So far as the aspect of penalty is concerned, it may be noted that the penalty imposed by the Labour Court on the respondent is disproportionate. Looking to the past conduct and considering the fact that the charges levelled against the respondent were proved, in my opinion a penalty of stoppage of two increments with future effect is required to be imposed on the respondent.

4. For the foregoing reasons, the petition is partly allowed. The impugned award dated 22nd February, 1999 passed by the Labour Court, Navsari in Reference [L.C.N.] No. 9/97 qua reinstatement is confirmed and as regards the penalty is concerned, the same is substituted by imposing a penalty of stoppage of two increments with

future effect. The petitioner Corporation shall reinstate the respondent in service within three months from the date of receipt of writ of this Court. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

/phalguni/